

§ 97-17. Settlements allowed in accordance with Article.

(a) This article does not prevent settlements made by and between the employee and employer so long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this Article. A copy of a settlement agreement shall be filed by the employer with and approved by the Commission. No party to any agreement for compensation approved by the Commission shall deny the truth of the matters contained in the settlement agreement, unless the party is able to show to the satisfaction of the Commission that there has been error due to fraud, misrepresentation, undue influence or mutual mistake, in which event the Commission may set aside the agreement. Except as provided in this subsection, the decision of the Commission to approve a settlement agreement is final and is not subject to review or collateral attack.

(b) The Commission shall not approve a settlement agreement under this section, unless all of the following conditions are satisfied:

- (1) The settlement agreement is deemed by the Commission to be fair and just, and that the interests of all of the parties and of any person, including a health benefit plan that paid medical expenses of the employee have been considered.
- (2) The settlement agreement contains a list of all of the known medical expenses of the employee related to the injury to the date of the settlement agreement, including medical expenses that the employer or carrier disputes, and a list of medical expenses, if any, that will be paid by the employer under the settlement agreement.
- (3) The settlement agreement contains a finding that the positions of all of the parties to the agreement are reasonable as to the payment of medical expenses.

It is not necessary, however, to satisfy the condition in subdivision (2) of this subsection when in the settlement agreement the employer agrees to pay all medical expenses of the employee related to the injury to the date of the settlement agreement.

(c) In determining whether the positions of all of the parties to the agreement are reasonable as to the payment of medical expenses under subdivision (3) of subsection (b) of this section, the Commission shall consider all of the following:

- (1) Whether the employer admitted or reasonably denied the employee's claim for compensation.
- (2) The amount of all of the known medical expenses of the employee related to the injury to the date of the settlement agreement, including medical expenses that the employer or carrier disputes.
- (3) The need for finality in the litigation.

(d) Nothing in this section shall be construed to limit the application of G.S. 44-49 and G.S. 44-50 to funds in compensation for settlement under this section.

(e) Nothing in this section prevents the parties from reaching a separate contemporaneous agreement resolving issues not covered by this Article. (1929, c. 120, s. 18; 1963, c. 436; 2001-216, s. 2; 2001-487, s. 102(b); 2005-448, s. 3; 2011-287, s. 4.)